

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Gotlieb	Team: Team # 4	CCRB Case #: 200200119	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/06/2001 10:30 PM	Location of Incident: 90th Street and 88th Avenue Queens	Precinct: 102	18 Mo. SOL 5/6/2003	EO SOL 5/6/2003	
Date/Time CV Reported Fri, 01/04/2002 6:30 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 01/04/2002 6:30 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vincent Hoosack	27469	923961	102 PCT
2. POM Edward Kraemer	15837	917834	102 PCT
3. SGT Patrick Abdul	00289	895151	102 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edward Kraemer	Force: Edward Kraemer pointed his gun at § 87(2)(b)	
B.SGT Patrick Abdul	Force: Patrick Abdul pointed his gun at § 87(2)(b)	
C.SGT Patrick Abdul	Abuse: Patrick Abdul searched the car in which § 87(2)(b) was an occupant.	
D.POM Vincent Hoosack	Force: Vincent Hoosack pointed his gun at § 87(2)(b)	

Synopsis

On November 6, 2001, at approximately 10:30 PM, § 87(2)(b) was driving westbound on Jamaica Avenue in a black 1997 Toyota Camry with tinted windows, with two of his friends, who had robbed a taxi cab driver at gunpoint earlier in the night. At the same time on Jamaica Avenue, 102nd Precinct Police Officer Edward Kraemer was driving an unmarked Chevrolet Lumina (RMP #§ 87(2)(b) with Sergeant Patrick Abdul and Officer Vincent Hoosack as passengers. § 87(2)(b) made a right turn onto 90th Street right in front of the Lumina, and subsequently ran a stop sign at the corner of 90th Street and 88th Avenue. After observing this, Officer Kraemer pulled over § 87(2)(b) a few car lengths away from the intersection, and all three officers approached the Toyota. Several requests were made for § 87(2)(b) and the passengers of the car to roll down their windows, and, because of this defiance, Sergeant Abdul opened the front passenger's door. Upon doing so, he noticed the handle of a .38 caliber revolver in the side compartment and yelled out "gun!" At this point, all three officers drew their firearms and took each occupant out of the car. The three occupants were handcuffed and secured while Sergeant Abdul searched the front passenger side, Officer Kraemer searched the driver's side, and Officer Hoosack searched the rear passenger side of the car. Back-up police officers arrived shortly thereafter, along with the victim of the armed robbery that occurred earlier in the night. The three occupants were lined up underneath the street lamp at the corner of 90th Street and 88th Avenue, and two were identified as having committed armed robbery earlier in the evening. All three individuals were then taken to the 102nd Precinct.

§ 87(2)(g)

Summary of Complaint

Complainant Statement

On November 6, 2001, § 87(2)(b) was driving his mother's black 1997 Toyota Camry with tinted windows on Jamaica Avenue near 83rd Street, at approximately 10:30 PM. He noticed that a police vehicle was behind him as he turned onto 83rd Street, when the car turned on its flashing lights. The vehicle stopped his car near that intersection and officers approached the car with their guns drawn. An officer whom § 87(2)(b) identified as "Sergeant Hoosack" (revealed later to have been Sergeant Abdul) approached the passenger side of the car with his gun drawn. He told the passenger, "roll down the tints, roll down the window." The passenger rolled down the window and the officer's gun was still pointed just outside of the car. The Sergeant took the passenger out of the car.

§ 87(2)(b) recalled at least five other officers surrounding the car. The officer who came to his window on the driver's side told him, "look straight and don't move." The Sergeant told the other officers to take the occupants out of the car and to hold them at gunpoint. The front-seat passenger was taken first, followed by § 87(2)(b) and then the rear-seat passenger. Each officer assisted in taking each individual out. After being taken out of the car, each occupant was "thrown" onto the hood of the unmarked police car, frisked, searched, and handcuffed. After each individual was searched and determined to be "clean," the Sergeant went back to the Camry and searched it. He looked in the side passenger door and found a .38 caliber handgun. § 87(2)(b) stated that the gun was not in plain view, and that he would not have been able to see it just by casually looking into the car. After he found the weapon, the Sergeant ordered the other officers to search the entire car. All three individuals were still being held at gunpoint while the car was searched. Nothing else was found, other than the .38 caliber gun.

After the car was searched, the three occupants were lined up in the street and told to keep their faces forward. A light was shined on them and, as § 87(2)(b) said, the "guy who got robbed that night...ID'd one of us." He stated that the victim took some time in his identification, and that the recovered gun belonged to the one who was positively identified. After one was identified, one of the officers said, "forget it, just bring all of them down." All three men were then taken to the 102 precinct.

Results of Investigation

Police Documents

Despite previous Department requests, Officer Hoosack's memo book for this incident was never provided. Officer Kraemer's memo book (enclosure 11a-c) indicates that a car stop occurred at the corner of 90th Street and 88th Avenue at approximately 10:46 PM and that three individuals were put under arrest by Officer Hoosack. Sergeant Abdul's memo book (enclosure 12c-e) indicates the same information as Officer Kraemer's. Arrest Report #§ 87(2)(b) (enclosure 13) and the Online Booking Sheet (enclosure 14a-b), provided by Officer Hoosack at his CCRB interview, indicates that § 87(2)(b) was arrested on November 6th by Officer Hoosack for robbery, criminal possession of a weapon, possession of marijuana, and violating a traffic signal at the corner of 90th Street and 88th Avenue.

The sprint printout, provided by Officer Hoosack (enclosure 15) indicates that a 911 call was placed at 9:53 PM on November 6th stating that two black males with a baby carriage robbed a livery cab driver at gunpoint.

Property voucher #§ 87(2)(b) (enclosure 16) indicates that Officer Hoosack vouchered one Rossi .38 Special Revolver and 4 .38 Special rounds. Property voucher #§ 87(2)(b) (enclosure 17) indicates that Officer Hoosack vouchered one clear ziplock bag containing eight smaller ziplock bags of marijuana and one clear plastic bag containing twenty-nine small ziplock bags of marijuana. Property voucher #§ 87(2)(b) (enclosure 20) indicates that Officer Hoosack vouchered \$93 in cash, one fifty-dollar bill, one twenty-dollar bill, one ten-dollar bill, and thirteen one-dollar bills. Officer Hoosack did not have the voucher for the baby carriage with him at the time of the interview, but indicated that it was vouchered along with everything else.

The Queens Robbery Squad Pattern Sheet (enclosure 21 and 22) indicates that two black males with a baby carriage had been robbing taxi cabs at gunpoint since November 1st. The Brooklyn Robbery Squad Pattern Sheet (enclosure 23) indicates the same information.

Subject Officer Statements

At approximately 9:30 PM on November 6th, Officer Vincent Hoosack, along with Sergeant Abdul and Officer Kraemer, was called to the scene of a robbery. They were assigned to precinct conditions for the night. A livery taxi-cab driver was robbed at gunpoint by two black males with a baby carriage. At approximately 10:30 PM that same night, the three officers were responding to a similar call and noticed a black Toyota Camry, with tinted windows, driving erratically and at a high rate of speed on Jamaica Avenue near 90th Street. Officer Hoosack noticed that this car matched the description of the car put over the radio earlier in the night. The driver of the Camry ran a stop sign and the officers pulled it over, without any knowledge of wrongdoing other than its traffic violation. Officer Hoosack recalled seeing a black male in the back seat repeatedly turn around, looking "nervously" at the officers.

The three officers exited their car and approached the stopped vehicle—Sergeant Abdul was on the front passenger side and Officer Kraemer was on the driver's side. They asked the occupants to roll down the windows several times because the dark tints obstructed their view inside. The occupants did not comply. At this point, the occupants were moving around and "fidgeting" inside the car, and since the officers could not see inside, they opened the door and removed each occupant at the same time. Each occupant was told to get out of the car with his hands "up where [they could] see them." The officers did not drag them out of the car. Officer Hoosack noticed the "butt" of a gun sticking out of the front passenger console and he alerted his partners. At this point, each officer drew his firearm for safety purposes, and searched each occupant to make sure that they were unarmed. They were placed under arrest for having the gun in their car. Officer Hoosack asked the occupants to put their hands on the trunk of the car while each officer searched the car. He stated that the officers did not necessarily point their guns at the occupants of the car, but that their guns were certainly drawn. A baby carriage was found in the back seat of the car with the alleged proceeds from the robbery earlier in the evening. Officer Hoosack also found a substantial amount of marijuana in the vehicle. Four marked sector cars showed up shortly after the arrest. Officer Hoosack called the complainant from the previous robbery to come to the scene and he identified two of the individuals right away. § 87(2)(b) was not one of the perpetrators identified, but since he was driving the two identified individuals, he was taken to the precinct with them.

Allegations

- A. **Force:** Officer Edward Kraemer pointed his gun at § 87(2)(b) in violation of Patrol Guide Procedure 203-10.
- B. **Force:** Sergeant Patrick Abdul pointed his gun at § 87(2)(b) in violation of Patrol Guide Procedure 203-10.
- D. **Force:** Officer Vincent Hoosack pointed his gun at § 87(2)(b) in violation of Patrol Guide Procedure 203-10.

The New York City Police Department permits an officer to “draw his firearm and point it at another person so long as he has a reasonable fear for his own or another’s personal safety.” *Police Department v. Gliner*, OATH Index No. 955/00 (Sept. 6, 2000). Without limiting the action of drawing one’s firearm with procedural formulae, the department provides broad discretion to its officers in determining the necessity of this action. While each incident in which an officer draws his/her firearm should be examined independently, an overall concern for safety, for both an officer and civilian, should govern its action in each circumstance. As such, misconduct can be determined to exist only in the absence of these concerns.

§ 87(2)(g) § 87(2)(g) According to all three officers’ testimonies, three black men were seen “fidgeting,” and moving around the car. Officer Kraemer claimed to have seen the baby carriage through the back window and Officer Hoosack claimed that the black 1997 Toyota Camry fit the description of a car put over the radio earlier in the night. Although Sergeant Abdul did not recognize anything, other than a traffic violation, with the patterned robberies familiar to all three of them, all were increasingly concerned that these men were dangerous. When faced with defiance to their orders to roll down their tinted windows, the officers remained unaware of what was inside, other than what was observed through the “8 inches” of rear window space uncovered by the tints.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

- C. **Abuse of Authority:** Sergeant Patrick Abdul searched the car in which § 87(2)(b) was an occupant in violation of Patrol Guide Procedure 218-13.

Although all three officers searched parts of § 87(2)(b)’s car at one point during the incident, Sergeant Abdul ordered them to do so. He also opened the door, which revealed the handle of the .38 caliber revolver, at the beginning of the incident and is thus the one responsible for the subsequent actions taken by the officers.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted text block]

§ 87(2)(b), § 87(2)(g) [Redacted text block]

[Redacted text block]

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Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: